

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**SENATE BILL**

**No. 1163** Session of  
1989

---

**Report of the Committee of Conference**

---

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 1163, entitled:

~~"An act Providing for confidentiality of certain records; providing for the authorized sharing of certain information; providing for written consent prior to an HIV-related test; providing for civil immunity for certain licensed physicians; establishing a criminal penalty, creating a civil cause of action; and making a repeal.~~

PROVIDING FOR CONFIDENTIALITY OF CERTAIN RECORDS; PROVIDING FOR THE AUTHORIZED SHARING OF CERTAIN INFORMATION; PROVIDING FOR WRITTEN CONSENT PRIOR TO AN HIV-RELATED TEST; PROVIDING FOR CIVIL IMMUNITY FOR CERTAIN LICENSED PHYSICIANS; AND CREATING A CIVIL CAUSE OF ACTION,"

respectfully submit the following bill as our report:

JOHN E. PETERSON

DAVID J. BRIGHTBILL

HARDY WILLIAMS

(Committee on the part of the Senate.)

DAVID P. RICHARDSON, JR.

BABETTE JOSEPHS

DONALD W. SNYDER

(Committee on the part of the House of Representatives.)

\*\*\*This page intentionally left blank\*\*\*

AN ACT

1 Providing for confidentiality of certain records; providing for  
2 the authorized sharing of certain information; providing for  
3 written consent prior to an HIV-related test, with certain  
4 exceptions; providing for civil immunity for certain licensed  
5 physicians; providing for protective procedures and  
6 equipment; and creating a civil cause of action.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the  
11 Confidentiality of HIV-Related Information Act.

12 Section 2. Legislative intent.

13 (a) Findings.--The General Assembly finds that the incidence  
14 of acquired immune deficiency syndrome (AIDS) is increasing in  
15 this Commonwealth at a significant rate. Controlling the  
16 incidence of this disease is aided by providing testing and  
17 counseling activities for those persons who are at risk of  
18 exposure to or who are carrying the human immunodeficiency virus  
19 (HIV), which is the causative agent of AIDS. Testing and  
20 counseling are promoted by establishing confidentiality  
21 requirements which protect individuals from inappropriate  
22 disclosure and subsequent misuse of confidential HIV-related  
23 information. The General Assembly also finds that, since certain  
24 specific behaviors place a person at risk of contracting the  
25 virus, testing and counseling of persons who are at risk of  
26 exposure to the virus makes an efficient use of available  
27 funding.

28 (b) Further findings.--The General Assembly further finds  
29 that individual health care providers are increasingly concerned  
30 about occupational exposure to Human Immunodeficiency Virus  
31 (HIV), the causative agent for Acquired Immunodeficiency

1 Syndrome (AIDS). Due to the nature of their work, individual  
2 health care providers and first responders frequently come into  
3 contact with the blood and/or body fluids of individuals whose  
4 HIV infection status is not known. Regardless of the use of  
5 universal precautions to prevent HIV transmission between  
6 patients and individual health care providers, there will be  
7 instances of significant exposure to the blood and/or body  
8 fluids of patients.

9 (c) Intent.--It is the intent of the General Assembly to  
10 promote confidential testing on an informed and voluntary basis  
11 in order to encourage those most in need to obtain testing and  
12 appropriate counseling.

13 (d) Further intent.--It is the further intent of the General  
14 Assembly to provide a narrow exposure notification and  
15 information mechanism for individual health care providers or  
16 first responders, who experience a significant exposure to a  
17 patients's blood and/or body fluids, to learn of a patient's HIV  
18 infection status and thereby obtain the means to make informed  
19 decisions with respect to modes and duration of therapy as well  
20 as measures to reduce the likelihood of transmitting an  
21 infection to others.

## 22 Section 3. Definitions.

23 The following words and phrases when used in this act shall  
24 have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "AIDS." Acquired immune deficiency syndrome.

27 "Available blood." Blood that is in the possession of the  
28 institutional health care provider or the source patient's  
29 physician pursuant to a valid authorization.

30 "CDC." The Centers for Disease Control of the United States

1 Public Health Service.

2 "Confidential HIV-related information." Any information  
3 which is in the possession of a person who provides one or more  
4 health or social services or who obtains the information  
5 pursuant to a release of confidential HIV-related information  
6 and which concerns whether an individual has been the subject of  
7 an HIV-related test, or has HIV, HIV-related illness or AIDS; or  
8 any information which identifies or reasonably could identify an  
9 individual as having one or more of these conditions, including  
10 information pertaining to the individual's contacts.

11 "Contact." A sex-sharing or needle-sharing partner of the  
12 subject.

13 "Department." The Department of Health of the Commonwealth.

14 "First responder." Police, firefighters, rescue personnel or  
15 any other person who provides emergency response, first aid or  
16 other medically related assistance either in the course of their  
17 occupational duties or as a volunteer, which may expose them to  
18 contact with a person's bodily fluids.

19 "Health care provider." An individual or institutional  
20 health care provider.

21 "HIV." The human immunodeficiency virus.

22 "HIV-related test." Any laboratory test or series of tests  
23 for any virus, antibody, antigen or etiologic agent whatsoever  
24 thought to cause or to indicate the presence of HIV infection.

25 "Home care agency." Any organization or part of an  
26 organization which is staffed and equipped to provide in-home  
27 health care services. The term includes, but is not limited to,  
28 Pennsylvania licensed home health agencies, home health aide  
29 agencies or private duty care agencies.

30 "Individual health care provider." A physician, nurse,

1 emergency medical services worker, chiropractor, optometrist,  
2 psychologist, nurse-midwife, physician assistant, dentist or  
3 other person, including a professional corporation or  
4 partnership, providing medical, nursing, drug or alcohol  
5 rehabilitation services, mental health services, other health  
6 care services or an employee or agent of such individual or an  
7 institutional health care provider.

8 "Institutional health care provider." A hospital, nursing  
9 home, hospice, clinic, blood bank, plasmapheresis or other blood  
10 product center, organ or tissue bank, sperm bank, clinical  
11 laboratory, residential or outpatient drug and alcohol  
12 rehabilitation service, mental health facility, mental  
13 retardation facility, home care agency as defined in this act,  
14 or any health care institution required to be licensed in this  
15 Commonwealth whether privately or publicly operated.

16 "Insurer." Any insurance company, association or exchange  
17 authorized to do business in this Commonwealth under the act of  
18 May 17, 1921 (P.L.682, No.284), known as The Insurance Company  
19 Law of 1921, any entity subject to 40 Pa.C.S. Ch. 61 (relating  
20 to hospital plan corporations) or Ch. 63 (relating to  
21 professional health services plan corporations), the act of  
22 December 29, 1972 (P.L.1701, No.364), known as the Health  
23 Maintenance Organization Act, or the act of July 29, 1977  
24 (P.L.105, No.38), known as the Fraternal Benefit Society Code.

25 "Significant exposure." Direct contact with blood or body  
26 fluids of a patient in a manner which, according to the most  
27 current guidelines of the Centers for Disease Control, is  
28 capable of transmitting Human Immunodeficiency Virus, including,  
29 but not limited to, a percutaneous injury (e.g., a needle stick  
30 or cut with a sharp object), contact of mucous membranes, or

1 contact of skin (especially when the exposed skin is chapped,  
2 abraded or afflicted with dermatitis) or if the contact is  
3 prolonged or involves an extensive area.

4 "Source patient." Any person whose body fluids have been the  
5 source of a significant exposure to an individual health care  
6 provider.

7 "Subject." An individual or a guardian of the person of that  
8 individual.

9 "Substitute decisionmaker." Any guardian or person who by  
10 law or medical practice is authorized to consent on behalf of an  
11 incompetent person for medical treatment.

12 Section 4. Prevention of transmission of infectious diseases.

13 The department shall, by regulation, require the use of  
14 protective measures and equipment by individuals, persons and  
15 institutions not covered by regulations promulgated by the  
16 Occupational Safety and Health Administration governing such  
17 protective measures and equipment. The department shall develop  
18 such regulations pursuant to guidelines established by the CDC.  
19 For health care providers covered by the provisions of the  
20 Occupational Safety and Health Administration governing such  
21 protective measures and equipment, the department shall  
22 encourage compliance with approved standards. This section shall  
23 not preclude the department from exercising rulemaking authority  
24 granted under any other act.

25 Section 5. Consent to HIV-related test.

26 (a) Consent.--Except as provided in section 6 with respect  
27 to the involuntary testing of a source patient, no HIV-related  
28 test shall be performed without first obtaining the informed  
29 written consent of the subject. Any consent shall be preceded by  
30 an explanation of the test, including its purpose, potential

1 uses, limitations and the meaning of its results.

2 (b) Pretest counseling.--No HIV-related test may be  
3 performed without first making available to the subject  
4 information regarding measures for the prevention of, exposure  
5 to and transmission of HIV.

6 (c) Confirmatory test.--No test result shall be determined  
7 as positive, and no positive test result shall be revealed,  
8 without confirmatory testing if it is required by generally  
9 accepted medical standards.

10 (d) Notice of test result.--The physician who ordered the  
11 test, the physician's designee, or a successor in the same  
12 relationship to the subject, shall make a good faith effort to  
13 inform the subject of the result regardless of whether the  
14 result is positive or negative.

15 (e) Post-test counseling.--

16 (1) No positive or negative test result shall be  
17 revealed to the subject without affording the subject the  
18 immediate opportunity for individual face-to-face counseling  
19 about:

20 (i) The significance of the test results.

21 (ii) Measures for the prevention of the transmission  
22 of HIV.

23 (iii) The benefits of locating and counseling any  
24 individual by whom the subject may have been exposed to  
25 HIV and the availability of any services with respect to  
26 locating and counseling such individual.

27 (2) No positive test result shall be revealed to the  
28 subject without, in addition to meeting the requirements of  
29 paragraph (1), also affording the subject the immediate  
30 opportunity for individual, face-to-face counseling about:

1 (i) The availability of any appropriate health care  
2 services, including mental health care, and appropriate  
3 social and support services.

4 (ii) The benefits of locating and counseling any  
5 individual who the infected subject may have exposed to  
6 HIV and the availability of any services with respect to  
7 locating and counseling such individual.

8 (f) Blinded HIV-related testing.--Blinded HIV-related  
9 testing for purposes of research performed in a manner by which  
10 the identity of the test subject is not known and may not be  
11 retrieved by the researcher is prohibited, unless reviewed and  
12 approved by the institutional review board established by the  
13 department except for testing pursuant to research approved by  
14 an institutional review board prior to the effective date of  
15 this act. The department shall make a good faith effort to  
16 maintain records of the results of blinded HIV tests performed  
17 in this Commonwealth and shall, on a yearly basis, forward  
18 information concerning the results to the appropriate committees  
19 of the General Assembly.

20 (g) Exceptions.--

21 (1) The provisions of subsections (a), (b), (c), (d) and  
22 (e) shall not apply to the following:

23 (i) The performance of an HIV-related test on a  
24 cadaver by a health care provider which procures,  
25 processes, distributes or uses a human body or a human  
26 body part, tissue or semen for use in medical research,  
27 therapy or transplantation.

28 (ii) The performance of an HIV-related test for the  
29 purpose of medical research not prohibited by subsection

30 (f) if the testing is performed in a manner by which the

1 identity of the test subject is not known and may not be  
2 retrieved by the researcher.

3 (iii) The performance of an HIV-related test when  
4 the test result of a subject is required by an insurer  
5 for underwriting purposes. However, the insurer shall  
6 satisfy the requirements of subsection (h).

7 (2) The provisions of subsections (a), (b) and (c) shall  
8 not apply to the performance of an HIV-related test in a  
9 medical emergency when the subject of the test is unable to  
10 grant or withhold consent and the test result is medically  
11 necessary for diagnostic purposes to provide appropriate  
12 emergency care to the subject.

13 (3) The provisions of subsections (d) and (e) shall not  
14 apply when a negative HIV-related test result is secured by a  
15 subject who has taken the test solely to satisfy a  
16 requirement for donating a human body or human body part,  
17 tissue or semen for use in medical research, therapy,  
18 transfusion or transplantation. However, if the subject  
19 requests identification of a negative test result, the test  
20 result shall be provided to the subject in accordance with  
21 subsection (d).

22 (h) Requirements applicable to insurers.--

23 (1) No HIV-related test shall be performed without first  
24 obtaining the informed written consent of the subject. Any  
25 consent shall be preceded, in writing, by:

26 (i) A disclosure of the effects of the test result  
27 on the approval of the application, or the risk  
28 classification of the subject.

29 (ii) Information explaining AIDS, HIV and the HIV-  
30 related test.

1 (iii) A description of the insurer's confidentiality  
2 standards.

3 (iv) A statement that, because of the serious nature  
4 of HIV-related illnesses, the subject may desire to  
5 obtain counseling before undergoing the HIV-related test.

6 (v) Information concerning the availability of  
7 alternative HIV-related testing and counseling provided  
8 by the department and local health departments, and the  
9 telephone number of the department from which the subject  
10 may secure additional information on such testing and  
11 counseling.

12 (2) The insurer is required to disclose to the subject a  
13 negative test result on an HIV-related test only if the  
14 subject requests notification.

15 (3) The insurer shall not disclose to the subject of an  
16 HIV-related test a positive test result. On the form on which  
17 the insurer secures the subject's written consent to the HIV-  
18 related test, the subject shall be required to designate to  
19 whom a positive test result shall be disclosed. The subject  
20 shall have the choice of designating a physician, the  
21 department or a local health department, or a local  
22 community-based organization from a list of such  
23 organizations prepared by the department. The insurer shall  
24 notify the designee of a positive test result.

25 (4) A positive test result shall be disclosed to the  
26 subject, by the designee, in accordance with subsections (d)  
27 and (e). The department may elect to have its disclosure  
28 responsibilities satisfied by a local health department.

29 Section 6. Certification of significant exposure and testing  
30 procedures.

1 (a) Physician's evaluation of significant exposure.--

2 (1) Whenever an individual health care provider or first  
3 responder experiences an exposure to a patient's blood or  
4 bodily fluids during the course of rendering health care or  
5 occupational services, the individual may request an  
6 evaluation of the exposure, by a physician, to determine if  
7 it is a significant exposure as defined in this act. No  
8 physician shall certify his own significant exposure or that  
9 of any of his employees. Such requests shall be made within  
10 72 hours of the exposure.

11 (2) Within 72 hours of the request, the physician shall  
12 make written certification of the significance of the  
13 exposure.

14 (3) If the physician determines that the individual  
15 health care provider or first responder has experienced a  
16 significant exposure, the physician shall offer the exposed  
17 individual the opportunity to undergo testing, following the  
18 procedure outlined in section 5.

19 (b) Opportunity for source patient to consent.--

20 (1) In the event that an exposed individual health care  
21 provider or first responder is certified to have experienced  
22 a significant exposure and has submitted to an HIV-related  
23 test, no testing shall be performed on a source patient's  
24 available blood unless the certifying physician provides a  
25 copy of the written certification of significant exposure to  
26 the source patient's physician or institutional health care  
27 provider in possession of the available blood and the source  
28 patient's physician or institutional health care provider has  
29 made a good faith effort to:

30 (i) Notify the source patient or substitute

1 decisionmaker of the significant exposure.

2 (ii) Seek the source patient's voluntary informed  
3 consent to the HIV-related testing as specified in  
4 section 5(a).

5 (iii) Provide counseling as required under section  
6 5(b).

7 (2) The source patient's physician or institutional  
8 health care provider that receives a certification of  
9 significant exposure shall begin to comply with the request  
10 within 24 hours. If the source patient's physician or  
11 institutional health care provider is unable to secure the  
12 source patient's consent because the source patient or the  
13 source patient's substitute decisionmaker refuses to grant  
14 informed consent or the source patient cannot be located, the  
15 source patient's physician or institutional health care  
16 provider shall arrange for an entry to be placed on the  
17 source patient's medical record to that effect. If these  
18 procedures are followed, and the entry is made on the source  
19 patient's medical record, then HIV-related tests shall be  
20 performed on the source patient's available blood if  
21 requested by the exposed individual health care provider or  
22 first responder who has submitted to an HIV-related test.

23 (3) The physician ordering the HIV-related test on a  
24 source patient's available blood on behalf of the source  
25 patient's physician or institutional health care provider  
26 shall comply with section 5(c) through (e).

27 (4) The health care provider or first responder shall be  
28 notified of the results of the HIV-related test on the source  
29 patient's blood if the health care provider or first  
30 responder's baseline HIV-related test is negative. Further

1 disclosure of the test results is prohibited unless  
2 authorized under section 7 of this act.

3 Section 7. Confidentiality of records.

4 (a) Limitations on disclosure.--No person or employee, or  
5 agent of such person, who obtains confidential HIV-related  
6 information in the course of providing any health or social  
7 service or pursuant to a release of confidential HIV-related  
8 information under subsection (c) may disclose or be compelled to  
9 disclose the information, except to the following persons:

10 (1) The subject.

11 (2) The physician who ordered the test, or the  
12 physician's designee.

13 (3) Any person specifically designated in a written  
14 consent as provided for in subsection (c).

15 (4) An agent, employee or medical staff member of a  
16 health care provider, when the health care provider has  
17 received confidential HIV-related information during the  
18 course of the subject's diagnosis or treatment by the health  
19 care provider, provided that the agent, employee or medical  
20 staff member is involved in the medical care or treatment of  
21 the subject. Nothing in this paragraph shall be construed to  
22 require the segregation of confidential HIV-related  
23 information from a subject's medical record.

24 (5) A peer review organization or committee as defined  
25 in the act of July 20, 1974 (P.L.564, No.193), known as the  
26 Peer Review Protection Act, a nationally recognized  
27 accrediting agency, or as otherwise provided by law, any  
28 Federal or State government agency with oversight  
29 responsibilities over health care providers.

30 (6) Individual health care providers involved in the

1 care of the subject with an HIV-related condition or a  
2 positive test, when knowledge of the condition or test result  
3 is necessary to provide emergency care or treatment  
4 appropriate to the individual; or health care providers  
5 consulted to determine diagnosis and treatment of the  
6 individual.

7 (7) An insurer, to the extent necessary to reimburse  
8 health care providers or to make any payment of a claim  
9 submitted pursuant to an insured's policy.

10 (8) The department and persons authorized to gather,  
11 transmit or receive vital statistics under the act of June  
12 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law  
13 of 1953.

14 (9) The department and local boards and departments of  
15 health, as authorized by the act of April 23, 1956 (1955  
16 P.L.1510, No.500), known as the Disease Prevention and  
17 Control Law of 1955.

18 (10) A person allowed access to the information by a  
19 court order issued pursuant to section 8.

20 (11) A funeral director responsible for the acceptance  
21 and preparation of the deceased subject.

22 (12) Employees of county mental health/mental  
23 retardation agencies, county children and youth agencies,  
24 county juvenile probation departments, county or State  
25 facilities for delinquent youth, and contracted residential  
26 providers of the above-named entities receiving or  
27 contemplating residential placement of the subject, who:

28 (i) generally are authorized to receive medical  
29 information; and

30 (ii) are responsible for ensuring that the subject

1 receives appropriate health care; and  
2 (iii) have a need to know the HIV-related  
3 information in order to ensure such care is provided.  
4 The above-named entities may release the information to a  
5 court in the course of a dispositional proceeding under 42  
6 Pa.C.S. §§ 6351 (relating to disposition of dependent child)  
7 and 6352 (relating to disposition of delinquent child) when  
8 it is determined that such information is necessary to meet  
9 the medical needs of the subject.

10 (b) Subsequent disclosure prohibited.--Notwithstanding the  
11 provisions of the act of June 29, 1953 (P.L.304, No.66), known  
12 as the Vital Statistics Law of 1953, or section 15 of the act of  
13 April 23, 1956 (1955 P.L.1510, No.500), known as the Disease  
14 Prevention and Control Law of 1955, no person to whom  
15 confidential HIV-related information has been disclosed under  
16 this act may disclose that information to another person, except  
17 as authorized by this act.

18 (c) Required elements of written consent to disclosure.--A  
19 written consent to disclosure of confidential HIV-related  
20 information shall include:

- 21 (1) The specific name or general designation of the  
22 person permitted to make the disclosure.
- 23 (2) The name or title of the individual, or the name of  
24 the organization to which the disclosure is to be made.
- 25 (3) The name of the subject.
- 26 (4) The purpose of the disclosure.
- 27 (5) How much and what kind of information is to be  
28 disclosed.
- 29 (6) The signature of the subject.
- 30 (7) The date on which the consent is signed.

1           (8) A statement that the consent is subject to  
2 revocation at any time except to the extent that the person  
3 who is to make the disclosure has already acted in reliance  
4 on it.

5           (9) The date, event or condition upon which the consent  
6 will expire, if not earlier revoked.

7           (d) Expired, deficient or false consent.--A disclosure may  
8 not be made on the basis of a consent which:

9           (1) has expired;

10           (2) on its face substantially fails to conform to any of  
11 the requirements set forth in subsection (c);

12           (3) is known to have been revoked; or

13           (4) is known by the person holding the information to be  
14 materially false.

15           (e) Notice to accompany disclosure.--Each disclosure made  
16 with the subject's written consent must be accompanied by the  
17 following written statement:

18           This information has been disclosed to you from records  
19 protected by Pennsylvania law. Pennsylvania law prohibits  
20 you from making any further disclosure of this  
21 information unless further disclosure is expressly  
22 permitted by the written consent of the person to whom it  
23 pertains or is authorized by the Confidentiality of HIV-  
24 Related Information Act. A general authorization for the  
25 release of medical or other information is not sufficient  
26 for this purpose.

27           (f) Duty to establish written procedures.--An institutional  
28 health care provider that has access to or maintains  
29 individually identifying confidential HIV-related information  
30 shall establish written procedures for confidentiality and

1 disclosure of the records which are in accordance with the  
2 provisions of this act within 60 days of the effective date of  
3 this act.

4 Section 8. Court order.

5 (a) Order to disclose.--No court may issue an order to  
6 allow access to confidential HIV-related information unless the  
7 court finds, upon application, that one of the following  
8 conditions exists:

9 (1) The person seeking the information has demonstrated  
10 a compelling need for that information which cannot be  
11 accommodated by other means.

12 (2) The person seeking to disclose the information has a  
13 compelling need to do so.

14 (b) Order to test and disclose.--No court may order the  
15 performance of an HIV-related test and allow access to the test  
16 result unless the court finds, upon application, that all of the  
17 following conditions exist:

18 (1) The individual whose test is sought was afforded  
19 informed consent and pretest counseling procedures required  
20 by section 5(a) and (b) and the subject refused to give  
21 consent or was not capable of providing consent.

22 (2) The applicant was exposed to a body fluid of the  
23 individual whose test is sought and that exposure presents a  
24 significant risk of exposure to HIV infection. A  
25 determination that the applicant has incurred a significant  
26 risk of exposure to HIV infection must be supported by  
27 medical and epidemiologic data regarding the transmission of  
28 HIV, including, if available, information about the HIV risk  
29 status of the source individual and the circumstances in  
30 which the alleged exposure took place.

1           (3) The applicant has a compelling need to ascertain the  
2       HIV test result of the source individual.

3       (c) Compelling need.--In assessing compelling need for  
4       subsections (a) and (b), the court shall weigh the need for  
5       disclosure against the privacy interest of the individual and  
6       the public interests which may be harmed by disclosure.

7       (d) Pleadings.--Pleadings under this section shall  
8       substitute a pseudonym for the true name of the individual whose  
9       test result is sought. Disclosure to the parties of the  
10      individual's true name shall be communicated confidentially in  
11      documents not filed with the court.

12      (e) Notice.--Before granting an order for testing or  
13      disclosure and as soon as practicable after the filing of a  
14      petition under this section, the court shall provide the  
15      individual whose test result is sought with notice and a  
16      reasonable opportunity to participate in the proceeding if the  
17      individual is not already a party.

18      (f) In camera proceedings.--Court proceedings under this  
19      section shall be conducted in camera, unless the individual  
20      agrees to a hearing in open court or unless the court determines  
21      that a public hearing is necessary to the public interest and  
22      the proper administration of justice.

23      (g) Expedited proceeding.--The court shall provide for an  
24      expedited proceeding if it is requested by the applicant and the  
25      application includes verified statements that:

26           (1) The applicant has been exposed to a body fluid that  
27           poses a risk of HIV infection from the individual whose test  
28           result is sought.

29           (2) The exposure occurred within six weeks of the filing  
30           of the application.

- 1 (3) The exposure involves:
- 2 (i) a percutaneous injury to the applicant's skin
- 3 from a needle stick or other sharp object;
- 4 (ii) contact of the applicant's eyes, mouth or other
- 5 mucous membrane;
- 6 (iii) contact of chapped or abraded skin of the
- 7 applicant; or
- 8 (iv) prolonged contact of the applicant's skin.

9 An expedited proceeding on the application shall be held no

10 later than five days after the court complies with subsection

11 (e), pertaining to notice requirements.

12 (h) Safeguards against disclosure.--Upon the issuance of an

13 order to disclose the information, the court shall impose

14 appropriate safeguards against unauthorized disclosure which

15 shall specify the following:

- 16 (1) The particular information which is essential to
- 17 accommodate the need of the party seeking disclosure.
- 18 (2) The persons who may have access to the information.
- 19 (3) The purposes for which the information will be used.
- 20 (4) The appropriate prohibitions on future disclosure as
- 21 provided for in section 7.

22 Section 9. Civil immunity for certain physicians.

23 (a) Permissible disclosure.--Notwithstanding the provisions

24 of section 7, a physician may disclose confidential HIV-related

25 information if all of the following conditions are met:

- 26 (1) The disclosure is made to a known contact of the
- 27 subject.
- 28 (2) The physician reasonably believes disclosure is
- 29 medically appropriate, and there is a significant risk of
- 30 future infection to the contact.

1           (3) The physician has counseled the subject regarding  
2 the need to notify the contact, and the physician reasonably  
3 believes the subject will not inform the contact or abstain  
4 from sexual or needle-sharing behavior which poses a  
5 significant risk of infection to the contact.

6           (4) The physician has informed the subject of his intent  
7 to make such disclosure.

8           (b) Subject not to be identified.--When making such  
9 disclosure to a contact, the physician shall not disclose the  
10 identity of the subject or any other contact. Disclosure shall  
11 be made in person except where circumstances reasonably prevent  
12 doing so.

13          (c) Duties relating to contacts.--A physician shall have no  
14 duty to identify, locate or notify any contact, and no cause of  
15 action shall arise for nondisclosure, or for disclosure in  
16 conformity with this section.

17          (d) Other immunity.--The physician who certifies that a  
18 significant exposure has occurred as provided by section 6 shall  
19 not be subject to civil liability for the exposure evaluation if  
20 acting in the good faith and reasonable belief that the  
21 certification was appropriate and consistent with this act.

22 Section 10. Civil cause of action.

23 Any person aggrieved by a violation of this act shall have a  
24 cause of action against the person who committed such violation  
25 and may recover compensatory damages. In the event of a  
26 violation of section 6 by a source patient's physician or an  
27 employee thereof, an aggrieved person may recover reasonable  
28 attorney fees and costs.

29 Section 11. Separate violations.

30 Each disclosure of confidential HIV-related information in

1 violation of this act or each HIV-related test conducted in  
2 contravention of this act is separate for purposes of civil  
3 liability.

4 Section 12. Disease Prevention and Control Law.

5 Insofar as the provisions of the act of April 23, 1956 (1955  
6 P.L.1510, No.500), known as the Disease Prevention and Control  
7 Law of 1955, are inconsistent with this act, this act shall  
8 apply.

9 Section 13. Effective date.

10 This act shall take effect in 90 days.